

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
BEGASHAW AYELE,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.: 04CV12217-PBS
)	
COGNISA SECURITY COMPANY, INC.,)	
)	
Defendant.)	
_____)	

**DEFENDANT’S REPLY TO PLAINTIFF’S “MOTION IN OPPOSITION TO
DEFENDANT’S MOTION FOR COMPELLING DISCOVERY”**

No comes Defendant Cognisa Security Inc. (hereinafter “Cognisa”) and hereby files this Reply to Plaintiff’s “Motion in Opposition to Defendant’s Motion for Compelling Discovery,” and shows this Court as follows:

I. Introduction

In this action, Plaintiff claims that Cognisa failed to hire him on account of his “race, color, national origin and perceived disability in violation of the [ADA] and the Civil Rights Act of 1964.” See Amended Complaint at ¶ 3. Cognisa filed a Motion to Compel Discovery with this Court on May 26, 2005. In that motion, Cognisa sought the names of two individuals Plaintiff alleged were comparators hired by Cognisa. On May 31, 2005, the last day of the discovery period in this case, Plaintiff filed a “Motion for Extension of Time Within Which to Answer Defendant’s Motion for Compelling Discovery and to Take Deposition From Defendant Cognisa Security, Inc.” In his motion, Plaintiff claimed that responding to Defendant’s Motion to Compel within the time allotted by the Federal Rules of Civil Procedure imposed an undue

burden upon him. Plaintiff's Response to Defendant's Motion to Compel Discovery was due to be filed with the Court on June 9, 2005. Rather than responding to Defendant's Motion within the time allowed, Plaintiff filed his "Motion in Opposition" on June 17, 2005, eight (8) days after it was due. However, during this period, Plaintiff also found time to draft and file (on June 17, 2005), a complaint in his seventh (7th) discrimination lawsuit filed in the United States District Court for the District of Massachusetts: Begashaw Ayele v. U.S. Security Associates, Inc., No. 1:05-cv-11273-WGY.

II. Plaintiff's "Motion in Opposition to Defendant's Motion for Compelling Discovery" is Untimely Filed and Should be Disallowed

Where a response to a motion is not timely filed, courts in the First Circuit have held that the party opposing the motion waived their right to assert objections thereto. Corey v. Mast Road Grain and Building Materials Co., Inc., et al., 738 F.2d 11, 12 (1st Cir. 1984) (district court did not abuse its discretion in declining "to excuse plaintiff's noncompliance with the local rule" requiring that responses be filed within ten (10) days). Local Rule 7.1(b)(2) provides that parties opposing a motion have fourteen (14) days to file an opposition. District courts have authority to insist on adherence to their local rules. See Nepsk, Inc. v. Town of Houlton, 283 F.3d 1, 11 (1st Cir. 2002) ("district courts enjoy broad latitude in adopting and administering [] local rules"). This Court should insist on such adherence in this case.

III. Conclusion

Because Plaintiff's justification for an extension of time to respond to Cognisa's Motion to Compel is without merit; because during the time allowed to respond, Plaintiff filed two motions and one complaint; and because Plaintiff did not file his "Motion in Opposition" until

eight (8) days after the Local Rule 7.1(b)(2) deadline, Plaintiff's "Motion in Opposition" should be disallowed, stricken from the record, and Defendant's Motion to Compel should be granted.

Respectfully submitted,

COGNISA SECURITY, INC.

By its attorneys

/s/Bronwyn L. Roberts

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Dated: June 27, 2005

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BEGASHAW AYELE,

Plaintiff,

V.

COGNISA SECURITY COMPANY, INC.,

Defendant.

Civil Action No.: 04CV12217-PBS

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of June, 2005, I electronically filed the foregoing REPLY TO PLAINTIFF'S "MOTION IN OPPOSITION TO DEFENDANT'S MOTION FOR COMPELLING DISCOVERY" with the Clerk of Court using the CM/ECF system.

I further certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participant:

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/s/Bronwyn L. Roberts
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